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10 Attorneys for Plaintiffs

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 SEAN MCCLINTOCK, et al., } Case No.: 8:25-cv-01381-MRA-ADS  
14 Plaintiffs, } [Honorable Monica Ramirez Almadani]

15 vs. } **JOINT RULE 26 SCHEDULING  
16 CITY OF FOUNTAIN VALLEY; and } CONFERENCE REPORT**

17 DOES 1-10, inclusive, } Date: September 29, 2025  
18 Defendants. } Time: 1:30 a.m.  
19 } Courtroom: 9B

20 } Original Complaint  
21 } Filed: June 26, 2025

22 } Answer to Complaint  
23 } Filed: July 30, 2025

24 } Final Pretrial Conference  
25 } (Proposed): September 28, 2026

1 **COME NOW ALL THE PARTIES JOINTLY AND STATE AS FOLLOWS:**

2 The parties herewith submit this joint scheduling conference report joined by all  
3 the parties pursuant to F.R.C.P. Rule 26 and the Court's Order (Doc. 16).

4 **1. Statement of the Case**

5 **PER PLAINTIFF:** On January 23, 2025, Osean McClintock, Decedent,  
6 was near San Mateo Street and El Corazon Avenue in Fountain Valley. While at  
7 this location, the involved City of Fountain Valley police officer discharged his  
8 firearm at Decedent, striking him, causing serious physical injury and eventually  
9 killing him. Decedent never pointed a gun at anyone, he did not shoot or seriously  
10 physically injure anyone during this incident, nor did he attempt to do so.  
11 Moreover, Decedent never punched or attempted to strike any of the involved  
12 officers and the involved officers had no information that anyone had been  
13 seriously physically injured. Decedent suffered from a serious pre-existing  
14 medical condition and was probably having a mental health crisis during the  
15 incident. It should have been apparent to an objectively reasonable officer, that  
16 Decedent that may have been experiencing a mental health crisis prior to the  
17 shooting. There were less than lethal alternatives to using deadly force against  
18 Decedent, such as a taser, pepper spray or utilizing cover if they believed Decedent  
19 was armed, which were available to the involved officers. Decedent did not pose  
20 an immediate or imminent threat of death or serious physical injury to either the  
21 involved officers or any other person at the time of the shooting. Decedent was not  
22 about to kill or cause serious bodily injury to anyone when he was fatally shot by  
23 the involved officers.

24 Plaintiffs' main claims are for excessive and unreasonable use of deadly force  
25 under both the Fourth Amendment and state law battery. Plaintiffs also bring claims  
26 for negligence, including pre-shooting negligent tactics, actions and inactions and  
27

1 for interference with familial relationship under the Fourteenth Amendment and  
2 violation of the Bane Act under state law.

3 **PER DEFENDANTS:**

4 This civil action arises out of an officer-involved shooting incident that  
5 occurred on January 23, 2025, between Decedent Osean McClintock and officers  
6 with the Fountain Valley Police Department (“FVPD”). Officers responded to a call  
7 reporting a man who was attempting to aggressively open the vehicle door of a  
8 woman who had just picked up her children from Masuda Middle School. When an  
9 officer tried to calmly detain Decedent, Decedent became physically combative and  
10 fled the area. After a foot pursuit, he confronted a female responding officer, who  
11 had just returned from maternity leave after having her first child, and gained control  
12 of the officer’s duty firearm by wrestling it from her hands and pulling her from the  
13 driver’s seat of her patrol vehicle.

14 Decedent pointed the gun at the female officer, who pleaded with him to not  
15 shoot her, while another officer issued multiple commands to Decedent to put the  
16 gun down, which Decedent ignored. Decedent then attempted to flee the scene, still  
17 armed with her duty weapon, by getting into the driver’s seat of the female officer’s  
18 patrol vehicle. Perceiving that Decedent posed an imminent threat of great bodily  
19 injury or death—where he could easily continue using the duty weapon, any other  
20 firearms and/or devices stored within the patrol vehicle, or the patrol vehicle itself  
21 as a deadly weapon—the officer fired his service gun at the patrol vehicle.

22 Plaintiffs are Decedent’s parents, who assert claims under Section 1983 and  
23 related state law, predicated on their contention that the officer’s use of force was  
24 objectively unreasonable.

1           **2.     Subject Matter Jurisdiction**

2           This is a civil rights lawsuit pursuant to 42 U.S.C. § 1983, which raises both  
3 federal questions under the Fourth and Fourteenth Amendments of the United States  
4 Constitution and supplemental jurisdiction is based on the pendant state law issues  
5 stemming from the same nucleus of operative fact.

6           **3.     Legal Issues**

7           **PER PLAINTIFFS:** The legal issues are whether the use of deadly force  
8 against Decedent was excessive and unreasonable, and whether the involved officers  
9 were negligent in their interaction with Decedent, including negligent pre-shooting  
10 tactics. Another legal issue is whether the involved officers were on notice, or  
11 should have been on notice, that they were dealing with a mentally ill individual who  
12 was suffering from a mental health crises, prior to using deadly force against him.  
13 Another issue is going to be the nature and extent of the damages, including damages  
14 for pain and suffering, loss of enjoyment of life and wrongful death damages.

15           **PER DEFENDANTS:**

16           The legal issues in this matter include as follows: (1) whether the officer's use  
17 of force was objectively unreasonable; (2) whether the officers employed negligent  
18 tactics leading up to the shooting; (3) whether the officers are entitled to qualified  
19 immunity and state law immunities; (4) whether the officers acted with a purpose to  
20 harm Decedent that interfered with Plaintiffs' familial relationships with the  
21 decedent; (5) whether the officers acted with a specific intent to violate Decedent's  
22 constitutional rights; (6) whether the City of Fountain Valley had unconstitutional  
23 customs, practices, or policies or inadequate training policies that led to a violation  
24 of Decedent's and/or Plaintiffs' constitutional rights, etc.

1           **4. Parties, Evidence, etc.**

2           The parties are Plaintiffs Sean Mcclintock and Valorie Flores. Defendants are  
3 City of Foutain Valley and Does 1-10.

4           The key documents on the main issues in the case are videos of the incident,  
5 including body cam videos, dash cam videos and surveillance video from the nearby  
6 businesses, photos of the scene, involved officers' interviews, witness interviews,  
7 photos of Decedent's injuries, autopsy report, autopsy photos, Decedent' s medical  
8 records, including EMS and fire department records.

9           **5. Damages**

10          **PER PLAINTIFFS:** Plaintiffs believe that a realistic range of provable  
11 damages is in excess of \$1,000,000, which includes both wrongful death damages  
12 and survival damages, such as pain and suffering damages prior to death, and loss  
13 of enjoyment of life.

14          **PER DEFENDANTS:**

15          At this early stage, Defendants have limited information concerning  
16 Plaintiffs' damage claims and require discovery to explore the nature and extent of  
17 their injuries. Defendants are informed and believed that Decedent harbored  
18 suicidal ideations and purposely precipitated the incidents and events underlying  
19 this litigation as means to commit suicide by cop.

20          **6. Insurance**

21          None on behalf of Plaintiffs.

22          Defendant City is permissibly self-insured up to certain limited pursuant to  
23 California Government Code Section 990.

24          **7. Motions**

25          **PER PLAINTIFFFS:** Plaintiffs will seek to amend the complaint to add  
26 the shooting officer(s) as named defendants.

1 Dispositive Motions- Plaintiffs do not anticipate filing a dispositive motion  
2 and do not believe that any issues or claims can be decided by dispositive motion.

3 Defendants intend to file discovery motions, as necessary, a motion for  
4 summary judgment, or in the alternative, summary adjudication of the issues, and  
5 pretrial motions.

6 **8. Manual of Complex Litigation**

7 The parties agree that this is not a complex case and it does not require any  
8 parts or procedures of the Manual for Complex Litigation pursuant Local Rule 26-  
9 1 (a).

10 **9. Discovery**

11 (a) The parties will be exchanging initial disclosures on or before  
12 September 29, 2025. No other discovery has been propounded to date.

13 **(b-d) Discovery Plan/Discovery Cut-off/Expert Discovery**

- 14 (1) Initial Disclosures: September 29, 2025  
15 (2) Non-Expert Discovery Cut-off: April 13, 2026;  
16 (2) Initial Expert Disclosure: May 4, 2026;  
17 (3) Rebuttal Expert Disclosure: June 1, 2026;  
18 (4) Expert Witness Discovery Cut-off June 22, 2026

19 The parties do not propose any changes to limitations on discovery and  
20 Plaintiffs will stipulate to a protective order regarding the investigation materials.

21 (e) Settlement Conference/Alternative Dispute Resolution (ADR)

22 No settlement negotiations have occurred to date. The parties prefer the  
23 Court Mediation Panel and have agreed to panel mediator, Richard Copeland.

24 (f) Trial

25 i. **Trial Estimate.** Plaintiffs estimate 5-7 trial days and trial will  
26 be by jury.

1 Plaintiffs estimate calling approximately 7 witnesses at trial.

2       **ii. Jury Trial.** The parties request a trial by jury.

3       **iii. Consent to Trial Before a Magistrate Judge.** The parties do  
4 not consent to try the case before a magistrate judge.

5       **iv. Lead Trial Counsel.** Plaintiffs' lead trial counsel is Dale K.  
6 Galipo and second chair is Eric Valenzuela. Defense lead counsel is Mark D.  
7 Rutter, and second chair is Kimberly Sarmiento.

8       **(g) Independent Expert or Master.** The parties agree that this is not a  
9 case that requires appointing an independent expert or master.

10      **(h) Other Issues.** None on behalf of the Plaintiffs.

11     The parties do not propose any severance, bifurcation, or other ordering of  
12 proof at this time.

14 DATED: September 8, 2025           LAW OFFICES OF DALE K. GALIPO

17     By \_\_\_\_\_ /s/ Eric Valenzuela  
18                   Dale K. Galipo  
19                   Eric Valenzuela  
20                   Attorneys for Plaintiffs

21 Dated: September 8, 2025

23     By:

24                   /s/ Kimberly Sarmiento  
25                   MARK D. RUTTER  
26                   KIMBERLY SARMIENTO  
27                   Attorneys for Defendants